

# State of Montana

## NSP SUBSTANTIAL AMENDMENT PLAN YEAR 2008 ANNUAL ACTION PLAN



*Governor Brian Schweitzer*

### Investing in Montana's Communities

#### DEPARTMENT OF COMMERCE

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Community Development Block Grant Program

Home Investment Partnerships Program

#### DEPARTMENT OF PUBLIC HEALTH & HUMAN SERVICES

*Anna Whiting-Sorrell, Director Designate*

Emergency Shelter Grant Program

**Amendment to:**  
**Plan Year**  
**April 1, 2008**  
**through**  
**March 31, 2009**

**As Submitted to**  
**HUD:**  
**November 28, 2008**

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# STATE OF MONTANA

## NSP SUBSTANTIAL AMENDMENT

### PLAN YEAR 2008 ANNUAL ACTION PLAN

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## INTRODUCTION

The Consolidated Plan is the document the Montana Department of Commerce is required to prepare and submit to the U.S. Department of Housing and Urban Development (HUD) as a precondition to receiving funds for the federally-funded Community Development Block Grant (CDBG) Program, Home Investment Partnerships (HOME) Program, and Emergency Shelter Grant (ESG) Program. The Action Plan is the annual update to the Consolidated Plan for FFY 2005 through 2010. This document is a substantial amendment to the Annual Action Plan for Federal Fiscal Year (FFY) 2008 submitted by the State of Montana.

This amendment to the FFY 2008 Annual Action Plan outlines the expected distribution and use of \$19,600,000 allocated to Montana by HUD through the recently established Neighborhood Stabilization Program (NSP). The NSP funds were authorized by the Housing and Economic Recovery Act of 2008 (HERA), signed into law on July 30, 2008 by President Bush, as an adjunct to the CDBG Program.

The Montana Department of Commerce (MDOC) will administer the NSP funds through the Community Development Division (CDD), CDBG Program, which will work to expeditiously provide these funds to eligible grantees.

Since the MDOC began administering the State CDBG Program in 1982, the program has always placed a great emphasis on responding to locally identified needs and priorities that are consistent with the purposes of the CDBG program. Montana's CDBG Program has always emphasized a bottom-up, rather than a top-down, process for identifying worthy and needed CDBG projects. The MDOC plans to continue to encourage a similar process for the Neighborhood Stabilization Program in order to allow the areas of greatest need in the State the ability to prioritize locally identified needs and propose NSP eligible activities during the limited timeframe allowed for implementation of the program.

Since the signing of HERA on July 30, 2008, MDOC has been soliciting comments from tribes, local governments, and non-profit organizations across the state, in regards to how best Montana can implement the new Neighborhood Stabilization Program. MDOC staff gave presentations at the annual Montana Association of Counties conference in September in Hamilton and the League of Cities and Towns annual conference in October in Missoula. The county, city, and town officials attending these conferences were informed of the new infusion of NSP funds in the State and were invited to offer comments. MDOC also participated in four statewide housing workshops in Missoula, Great Falls, Billings, and Glendive during October to present the NSP information and the proposed amendment. Additionally, in October MDOC participated in a conference call with five of Montana's tribes, the Governor's Office of Economic Development, and HUD's Montana field representatives. In addition, on November 20, MDOC provided a state-wide opportunity for public comment through a combined Go-to-Webinar (internet based conference call) and METNet (video-conferencing). MDOC staff presented the proposed amendment via a power point presentation and responded to questions and comments. As a result of the conference call with the tribes, they set up another meeting with MDOC CDBG staff on November 21 in Billings to further discuss how the tribes can use NSP funds. As a result, numerous non-profits, local governments, and tribes have submitted comments and letters offering testimony on their housing concerns and needs to MDOC. In addition, many cities, towns, counties, and tribes have submitted project ideas to MDOC. These responses have substantially assisted MDOC's preparation of this amendment and the department is grateful for their interest and constructive comments.

MDOC has worked directly with local governments and Montana's Indian tribes in an effort to determine the best strategy for utilizing and distributing the funds as quickly and as effectively as possible, based on local priorities. In all cases, the underlying distribution and use of funds will be dictated by the eligible uses and eligible activities set forth in the NSP Federal Register Notice (hereafter referred to as the Notice), which was published on October 6, 2008. A flexible approach is needed to develop viable projects in all high need areas. Montana is a vast, diverse state and there are many unique challenges in developing projects for Montana's Indian tribes and for small, rural communities with limited staff. HERA states that state governments should use their best judgment to serve those areas not receiving a direct NSP allocation. The Notice promises that *"States will be given maximum feasible deference in accordance with 24 CFR 570.480 (c) in matters relating to the administration of the NSP program."*

The purpose of the NSP funds is to address the negative ramifications of the housing crisis that has occurred over the past five years, which nationally, resulted in significant numbers of homeowners entering into foreclosure and, in some cases, entire neighborhoods of some cities becoming vacant and abandoned. Fortunately, the number of subprime mortgages in Montana is significantly below the national average and Montana has not exhibited the extent of housing foreclosures as other areas of the nation. According to data provided by HUD, during the past 18 months the State had a total of 191,311 mortgages. Of these, only 1.8% resulted in foreclosure starts, 0.5% are in default, and 5.5% were subprime loans.

While Montana may not be experiencing the same level of severe foreclosure and subprime lending problems that have occurred elsewhere, Montana still faces a variety of significant affordable housing and related needs, which differ greatly between large urban and small rural communities, as well as regionally across the State. Montana's Indian tribes face some unique administrative hurdles in resolving their housing needs because of the required involvement of the federal Bureau of Indian Affairs in reservation housing projects. Despite the potential challenges, MDOC is hopeful many of Montana's needs can be addressed with the emergency NSP funding.

In low growth areas of Montana there are large numbers of homes that are vacant or in substandard condition. About 25% of the housing units statewide are in poor condition.<sup>1</sup> While many of these homes are considered unsuitable for habitation by objective standards, some are still occupied. The eligible uses of NSP would allow tribes and Montana communities to address this problem through voluntary demolition and the provision of replacement housing, while at the same time, allowing new opportunities for redevelopment of vacant properties.

In high growth areas, the lack of affordable housing is causing problems that affect individual families, work force housing for businesses, communities and the State. Homelessness, generated by a shortage of affordable housing units, is impacting many communities. In 2007, over 50% of the state's homeless population were families.<sup>2</sup> Also, many of these same areas are having difficulties hiring teachers, nurses, law enforcement officers, and other related service personnel because there is either no decent, safe and sanitary housing or the area home prices require an unacceptably high percentage of the family's income be used toward housing expenses, making the housing unaffordable for middle income workers.

Across the State, many families find that mobile homes or manufactured housing are the only affordable housing option. Unfortunately, many older mobile home parks are being sold because the land is in demand for conversion to other more profitable uses. The effect is that many families are displaced and lose their home because they cannot find an acceptable alternative site. In addition, many of the mobile homes in Montana

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<sup>1</sup> Montana Housing Condition Study, Montana Department of Commerce, February 2005, [http://housing.mt.gov/Hous\\_CP\\_HsgCondStdy.asp](http://housing.mt.gov/Hous_CP_HsgCondStdy.asp)

<sup>2</sup> Housing in Montana; The White Paper, Housing Coordinating Team, September 2008, [http://housing.mt.gov/Includes/HCT/Final\\_White\\_Paper.pdf](http://housing.mt.gov/Includes/HCT/Final_White_Paper.pdf)

were built before 1976, when minimum HUD construction standards were adopted. A large number of these older units are deteriorated, not energy efficient, and unsafe for residents. The attached map (Appendix A, page A-1) shows the distribution of mobile homes in the state. The NSP eligible activities would allow the removal of blighted properties and the opportunity for the development of permanent affordable and decent housing for families.

According to HUD, NSP funds must be focused on areas of greatest need and for projects that will have a meaningful impact on communities. The Notice states, *“NSP funds will be used to meet the congressionally identified needs of abandoned and foreclosed homes in the targeted areas set forth in the grantee’s substantial amendment.”* HERA requires that NSP funds be targeted to areas of greatest need within the State of Montana and be used or obligated within 18 months. As described in HERA, NSP funds must be used or obligated within 18 months of receipt of the grant. The Notice states, *“Funds are used when they are obligated by a state, unit of general local government, or any subrecipient thereof, for a specific NSP activity.”* The term obligation is defined in 24 Code of Federal Regulations (CFR) Part 85.3, *“Obligations means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.”* If the funds are not used or obligated for a specific NSP project or activity within 18 months of receipt of the grant, HUD will recapture the amount of the unused funds. Therefore, MDOC will implement an open-cycle, obligation-based grant approach for the NSP projects, to help ensure that the \$19.6 million of NSP funds is used or obligated during the 18 month timeframe.

HUD encourages states to distribute NSP funds to Entitlement communities, recognizing that they will play an important role in the new NSP Program (NSP Federal Register Notice, October 6, 2008). The Notice states, *“...the state is required to distribute funds without regard to a local government status under any other CDBG program and must use funds in entitlement jurisdictions if they are identified as areas of greatest need, regardless of whether the entitlement receives its own NSP allocation.”* MDOC is well aware that Montana’s three Entitlement CDBG communities of Billings, Great Falls, and Missoula already receive annual CDBG allocations, carry out needs hearings, have prepared detailed consolidated plans and action plans, and are following citizen participation processes to involve residents in determining community development and housing needs. The new NSP Program can assist these Entitlement communities to implement their consolidated plans and, in particular, assist them to meet their special housing objectives that fit within the eligible categories of NSP activities.

MDOC received several comments from Indian tribes and rural communities expressing their concern regarding whether they would have the capacity to compete successfully for NSP funding with larger communities. MDOC is well aware that some of these communities and tribes may need technical assistance in accessing NSP funds. Both the Community Development Division and the Housing Division of MDOC will be making every effort to assist tribes and communities to take advantage of NSP



resources to address their housing and blight needs. After HUD's approval of the proposed Action Plan Amendment is received, MDOC will be sponsoring a series of regional workshops to be held across the State to assist tribes and rural communities in applying for NSP funds.

In addition to MDOC resources, tribes and communities needing additional assistance can call upon NeighborWorks Montana, in Great Falls, MDOC's Regional Development Officers (RDOs), based in five different locations across the state, as well as the regional Certified Regional Development Corporations. Montana has twelve Certified Regional Development Corporations, referred to as the "CRDCs", whose purpose is to facilitate economic and community development within the counties of each region, which can be an additional source of technical assistance. MDOC's Community Technical Assistance Program (CTAP) can be another useful resource for developing NSP projects. The geographic information system (GIS) mapping capabilities provided through CTAP can be an important source for maps identifying "very poor" or "unsound" properties in cities and towns that could be candidates for NSP funds to complete demolition projects. These maps are based on property appraisal information from the Montana Department of Revenue.

As is more fully described below and in response to HUD's requirements, MDOC intends to issue a series of requests for proposals (RFP) as a means of allocating the State's direct NSP allocation through a staggered RFP process that will occur in three separate stages. Additional proposals may be solicited through subsequent RFP's, depending upon the number of eligible proposals that are received and the available balance of uncommitted State of Montana NSP funds.

## **A. Areas of Greatest Need**

HERA mandates that grantees that receive NSP funding (the State) distribute funds to the areas of greatest need, which are defined as:

- Those with the greatest percentage of home foreclosures;
- Those with the highest percentage of homes financed by a subprime mortgage loan; and,
- Those identified by the State or unit of general local government as likely to face a significant rise in the rate of home foreclosures.

The Notice states, *"The grantee's narrative must address the three need categories in the NSP statute, but the grantee may also consider other need categories."*

Montana has chosen to establish four need categories in response to public comments received at the statewide workshops held in October. The categories are areas with:

- 1) The greatest percentage of foreclosures;
- 2) The greatest percentage of homes financed by a subprime mortgage loan;

- 3) A significant rise in the rate of home foreclosures; and
- 4) A significant amount of blight (as defined within this amendment).

MDOC will use the NSP funds for the purposes set forth in HERA – to promote neighborhood stabilization where subprime lending, foreclosure, and blight have negatively affected the housing market. Accordingly, MDOC will give preference to those applicants that can target NSP resources to neighborhood stabilization projects that will address these problems in areas with the greatest needs while meeting the Low, Moderate and Middle Income (LMMI) NSP Objective. Furthermore, MDOC will give first priority to those proposals that will purchase or rehabilitate abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose income do not exceed 50 percent of area median income (AMI). NSP allows eligible activities to provide a benefit that will assist families that are at or below 120 percent of area median income (AMI) or LMMI. HUD has provided the LMMI limits. The following link will provide the LMMI limits for Montana:

<http://comdev.mt.gov/Includes/CDBG/MT08NSPIncomeLimits.pdf>

MDOC will use the following sources of data to define areas of greatest need:

1. HUD Risk Score – Measures the estimated foreclosure and abandonment risk of every Census Block Group in the State. This score includes data to assess areas with the greatest percentage of home foreclosures, the highest percentage of homes financed by a subprime mortgage-related loan, and identified as likely to face a significant rise in the rate of home foreclosures. The HUD Risk Score also address all of the statutorily required needs factors. This score is scaled from 0 to 10, with 10 being the highest or greatest risk. A complete listing of the risk score and data for each Census Block Group is available at the following website:

[www.huduser.org/datasets/excel/MT120\\_LM.xls](http://www.huduser.org/datasets/excel/MT120_LM.xls)

2. Montana Department of Revenue Property Physical Condition Database – The Computer Assisted Mass Appraisal (CAMA) data provides information regarding blighted properties in Montana. It includes data on the number of “unsound” and “very poor” dwellings identified, by municipality, compared to the total number of dwellings in the municipality. The percentages ranged from 0.00% to 69.93%. A complete listing of this data is available at the following website:

[http://comdev.mt.gov/CDD\\_CDBG\\_NSP.asp](http://comdev.mt.gov/CDD_CDBG_NSP.asp)

3. Sources of data provided for Montana’s Indian tribes by the HUD Office of Native American Programs in Denver and the area offices of the Bureau of Indian Affairs to further identify tribal housing issues. MDOC encourages tribes to submit data from these sources with NSP proposals.

The State has established the following definitions of “Greatest Need Areas.”

- **Qualified Need Areas:** MDOC has determined that any applicant for NSP funds must have within its geographic jurisdiction a Census Block Group with a HUD risk score of one (1) or higher, or be located in a county with subprime mortgages totaling at least 1.0% or higher, or demonstrate that the percentage of blight is at least 1.0%. All applicants must show that their jurisdictions meet the “Qualified Need Area” level of need, which constitutes the threshold of eligibility for NSP funds. Local, State or HUD data can be used to define the area that is a Qualified Need Area as further defined in this amendment.
- **Priority Need Areas:** MDOC has determined that jurisdictions with a risk score of five (5) or higher or blight score of 5.5% or higher will be deemed as Priority Need Areas. Applicants from the Priority Need Areas will receive priority consideration in the funding distribution and award process. These applicants do not have to restrict their activities to only the Priority Need Census Block Groups, but must demonstrate how the activities they undertake will address the intent of Neighborhood Stabilization.

MDOC has attached maps of the four categories (Appendix A, page A-2 through A-5) showing the distribution of foreclosures, subprime loans, and amount of blight in the state. In addition, the following websites provide access to the HUD and State data regarding the areas of greatest need:

- [http://comdev.mt.gov/CDD\\_CDBG\\_NSP.asp](http://comdev.mt.gov/CDD_CDBG_NSP.asp)
- <http://www.huduser.org/publications/commdev/nsp.html>

## **B. Distribution and Uses of Funds**

### **Distribution Process**

MDOC will use a staggered or staged Request for Proposals (RFP) process to solicit proposals from tribes and local governments for local NSP projects, and will rely on the areas of greatest need (as described in the previous section) to focus the allocation of NSP funds, as required by the Notice. This decision was made based on the following reasons:

- Given the emergency nature of the assistance, and the short time frame permitted to publish and prepare this Amendment (i.e., HUD Notice issued on October 6, 2008, plan amendments required to be published for public comment by November 13, 2008, and submission of the plan required by December 1, 2008);
- The HUD requirement to obligate NSP funds within 18 months of HUD’s approval of this Amendment;

- As described in HERA, NSP funds must be used or obligated within 18 months of receipt of the grant. The Notice states, *“Funds are used when they are obligated by a state, unit of general local government, or any subrecipient thereof, for a specific NSP activity.”*
- The term obligation is defined in 24 Code of Federal Regulations (CFR) Part 85.3, *“Obligations means the amounts of orders placed, contracts and subgrants awarded, goods and services received, and similar transactions during a given period that will require payment by the grantee during the same or a future period.”* If the funds are not used or obligated for a specific NSP activity within 18 months of receipt of the grant, HUD, will recapture the amount of the unused funds;
- HERA’s objectives for and restrictions on the use of NSP funds, which differ significantly from regular CDBG funds;
- The State’s desire to promote quick implementation of projects to respond to foreclosures and other factors which are destabilizing neighborhoods and causing declining home values;
- The need for reasonable geographic and proportionate distribution of NSP funds statewide; and,
- The high level of interest in NSP funding from Montana communities statewide.

Upon approval of Montana’s Action Plan Amendment by HUD, MDOC will issue a staggered or staged RFP and begin accepting applications on an open-cycle basis for all projects that propose to establish financing mechanisms, purchase or rehabilitate abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose income does not exceed 50 percent of AMI. This first RFP will be referred to as stage one of the staggered RFP process. The RFP issue date is dependent upon the date of HUD’s approval of this Action Plan Amendment, and/or changes issued to the NSP Notice or interpretation of the Notice as clarified on the HUD website for this program: <http://www.hud.gov/nsp>. MDOC urges potential grantees to be on alert for such changes, which will be posted on the MDOC website with other NSP publications and materials. That website is:

[http://comdev.mt.gov/CDD\\_CDBG\\_NSP.asp](http://comdev.mt.gov/CDD_CDBG_NSP.asp)

MDOC will issue a second RFP and begin accepting applications on an open-cycle basis 30 days after the date of the approval of Montana’s Action Plan Amendment by HUD for those proposals that will establish financing mechanisms, purchase or rehabilitate, or land bank abandoned or foreclosed home or residential properties that will assist families or individuals whose income does not exceed 80 or 120 percent of AMI. This second RFP will be referred to as stage two of the staggered RFP process.

MDOC will issue a third RFP and begin accepting applications on an open-cycle basis 60 days after the date of the approval of Montana's Action Plan Amendment by HUD for those proposals that will complete project activities to demolish blight or redevelop demolished or vacant properties. This third RFP will be referred to as stage two of the staggered RFP process.

The staggered or three staged RFP process described above will give priority to those projects that address HERA's requirement that *"not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income."* Additionally, the staggered or three staged RFP process will allow those eligible applicants that have not previously worked with the State CDBG program time to access technical assistance from MDOC or partner with any one of Montana's experienced CRDCs, Human Resource Development Council's, Certified Housing Development Organization's, NeighborWorks Montana, or any other non-profit organizations. MDOC pledges to provide technical assistance to tribes and rural communities in to assure that they can fully participate in the State's Neighborhood Stabilization Program.

Eligible recipients submitting a proposal that contains a combination of activities allowed under two or more stages will be allowed to submit the proposal at the earliest RFP. For example, if a proposal is submitted that requests NSP funds to complete a combination of activities for both stage one and stage three, the applicant will be allowed to submit the proposal during the stage one timeframe.

During the public comment period of the State's draft amendment, several tribes and rural communities expressed their concerns regarding their ability to quickly prepare proposals and apply for NSP funds. Through this staggered RFP process and the provision of technical assistance, MDOC anticipates that tribes and rural communities will have an equivalent opportunity to access NSP funds while still obligating NSP funds within the 18-month window for obligating NSP funds.

Anthony J. Preite, Director of the Montana Department of Commerce, has stated, "We are committed to providing extensive technical assistance to areas of greatest need, such as Montana's Indian tribes and rural communities. We feel it is necessary that these areas have the ability to access these NSP resources."

### **Initial Funding Round**

- After HUD's approval of the State of Montana's Action Plan Amendment, applicants may submit proposals, according to the staggered or three staged RFP process listed in the chart below, at any time during the open-cycle RFP process. The RFP will be published on Montana's NSP website:

[http://comdev.mt.gov/CDD\\_CDBG\\_NSP.asp](http://comdev.mt.gov/CDD_CDBG_NSP.asp) .

- Chart identifying the timeline of the staggered RFP process:

<b>Open-cycle - Staggered or Staged RFP process</b>	<b>Date Proposals are Accepted by MDOC</b>
<b>Stage One:</b> Proposals to establish financing mechanisms, purchase or rehabilitate abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose income does not exceed 50 percent of AMI – NSP eligible activities A, B & C (outlined in greater detail later in this amendment)	The date HUD approves the MT Amendment
<b>Stage Two:</b> Proposals that will establish financing mechanisms, purchase or rehabilitate, or land bank abandoned or foreclosed home or residential properties that will assist families or individuals whose income does not exceed 80 or 120 percent of AMI – NSP eligible activities A, B & C (outlined in greater detail later in this amendment)	30 days after the date HUD approves the MT amendment
<b>Stage Three:</b> Proposals that will complete project activities to demolish blight or redevelop demolished or vacant properties – NSP eligible activities D & E (outlined in greater detail later in this amendment)	60 days after the date HUD approves the MT amendment

- All proposals received will be summarized on Montana’s NSP website:  
[http://comdev.mt.gov/CDD\\_CDBG\\_NSP.asp](http://comdev.mt.gov/CDD_CDBG_NSP.asp) .
- All proposals must be reasonable and appropriate given the limited amount of funds in comparison to the anticipated high demand for them on a statewide basis.
- The State will award NSP funds to eligible applicants in the initial funding round based upon acceptable applications that are consistent with this amendment.
- **HERA states, “not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.”** The State will give priority to those foreclosure-related proposals that meet the 50 percent (low-income) AMI requirement.
- **If MDOC does not receive foreclosure-related proposals totaling at least 25 percent of the NSP funds (one-fourth of the total funds obligated through Montana’s NSP allocation) for this population group as required by statute, MDOC may delay awarding grants for NSP eligible activities D & E until additional eligible proposals/activities (NSP activities A, B & C) are identified to meet this requirement. MDOC can only expend NSP funds for activities D & E in relative proportion to the 25 percent requirement. If MDOC did authorize projects that do not conform to the 25 percent requirement, MDOC could be**

**liable for reimbursing those funds back to HUD under NSP regulations. MDOC may choose to solicit additional NSP proposals, unilaterally modify grant request amounts, and/or identify other eligible projects that meet the 50 percent (low-income) AMI requirement.**

- The State reserves the right to reject any application that does not meet the requirements of the NSP statute or appears infeasible.

### **Administrative Funds**

MDOC will share with grantees the 10 percent of the NSP funds potentially available for administrative uses as follows: Up to five percent (or up to \$980,000) will be retained by the State to fulfill the administrative and monitoring requirements of the program, and up to five percent will be available to grantees receiving NSP grant funds for grant administration. The Notice states, *“For all grantees, including states, the 10 percent limitation applies to the grant as a whole.”* Therefore, the state can only allow the expenditure of administrative funds for project costs in relative proportion to the amount of funds obligated for or expended on eligible NSP activities.

Upon notification, NSP grantees will receive authorization to incur project start-up costs which do not involve any physical construction or demolition activities, such as hiring professional grant administrators, engineers, architects, or initiating the project environmental review process. These actions will consist of the following:

- utilizing administrative staff working on NSP activities and/or selecting an outside administrative consultant for NSP projects;
- preparation or revision of project management plans;
- publishing legal notices;
- incurring other administrative expenses required for capacity building (e.g., training appropriate for the NSP project);
- advertising for consultant services (architecture, engineering, and grant administration) by means of requests for proposal (RFP) or requests for qualifications (RFQ), as applicable;
- Project architecture, engineering and design costs; and
- Environmental studies or assessments required by HUD regulations (24 CFR, Parts 51, 55, and 58).

No costs other than those listed above may be incurred without written consent from MDOC. Reimbursement of costs incurred is contingent on the satisfactory completion of the Environmental Review Record for the NSP project, the issuance of a Release of Funds by MDOC, and executing and meeting the terms of the contract between MDOC and the local entity. In the event the grantee is unable to complete any required start-up activity, any costs incurred will be the responsibility of the grant applicant.

Grantees will also be responsible for any costs incurred in the event the grantee or sub-grantee fails to obligate NSP funds by executing a contract or similar agreement to carry out a NSP activity.

## **Eligible Applicants**

For the purposes of Montana's NSP program, eligible applicants are limited to Indian tribes, counties, cities, and towns in areas of the State meeting the definition of an area of greatest need. However, all entities must be eligible to receive federal funds as defined in Title III, Section 2304 of HERA and follow all applicable CDBG regulations. MDOC is limiting direct application for NSP funds to Indian tribes and general purpose local governments for several reasons.

Federal regulations require that grant recipients have adequate management capacity and have financial management systems that meet generally accepted accounting principles. Given the limited time frames for NSP implementation, MDOC believes that this is best assured by limiting eligible applicants to Indian Tribes and general purpose local governments (counties and municipalities). Many of Montana's Indian tribes are familiar with CDBG requirements because of past experience with the HUD Indian CDBG Program. Likewise, many counties and municipalities are also familiar with CDBG requirement due to past experience with either the HUD Entitlement CDBG Program or the State CDBG Program.

By limiting applications to local government and tribes, this will assure that any project proposals originated by non-profit organizations have the support of the community, as a whole. The State encourages these organizations to partner with local governments and tribes to develop and participate in local NSP projects and to share their expertise in planning and implementing local NSP housing projects.

One potential disadvantage of allowing applications directly from nonprofit organizations, county or municipal housing authorities, or redevelopment authorities is that the environmental clearance must be conducted by HUD with no assurance as to the amount of time that would be required for a HUD decision. The State believes that it will be able to assure a faster environmental clearance timeframe.

Under federal regulations and state law (Section 2-7-504, MCA), city, town and county grant recipients must be able to demonstrate that their financial management system meets generally accepted accounting principles before MDOC will disburse funds for a local project. As part of this process, MDOC will consult with the Local Government Services Bureau of the Montana Department of Administration, as applicable, to determine if the applicant is current in completing required financial audits and submitting annual financial reports. Tribal Governments must comply with auditing and reporting requirements provided for in OMB Circular A-133.

In those cases where the applicant's jurisdiction has inadequate accounting capacity, the MDOC will work with the Local Government Services Bureau to provide technical



assistance. In some cases, this may require purchasing special computer software programs and training of staff responsible for financial management.

Under HUD regulations in order to be awarded federal funds, an applicant must have the management capacity to undertake and satisfactorily complete the project it is proposing. If an applicant does not believe that it currently has the capacity to manage a NSP grant, it may propose to arrange for project administration by another governmental entity through an inter-local agreement.

### **Eligible Activities**

MDOC will make NSP funds available for the following statutorily eligible activities. NSP funds are eligible to:

- A. Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.
- B. Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties.
- C. Establish land banks for homes that have been foreclosed upon.
- D. Demolish blighted structures.
- E. Redevelop demolished or vacant properties.

HUD has established restrictions on these activities via its Notice on the NSP allocation. In addition, eligible activities A, B, and C are only eligible if the use of funds will address an abandoned or foreclosed property. HUD has waived the requirement for one-for-one replacement, but requires documentation on the number of units that will be produced. (One-for-one replacement is required under the regular CDBG program as found in 24 CFR 42.375: *"All occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than as lower-income dwelling units in connection with an assisted activity must be replaced with comparable lower-income dwelling units."*) MDOC will seek to allow the maximum authorized flexibility in the use of NSP funds while adhering to HUD-mandated restrictions. MDOC will also advise and provide technical assistance to all NSP applicants regarding these requirements.

The eligible activities outlined in this Action Plan for NSP funds are subject to change, based upon HUD's approval of this Action Plan, and/or changes issued to the NSP Notice or interpretation of the Notice as clarified on the HUD website for this program: <http://www.hud.gov/nsp>. MDOC urges potential grantees to be on alert for such

changes, which will be posted on the MDOC website with other NSP publications and materials. That website is: [http://comdev.mt.gov/CDD\\_CDBG\\_NSP.asp](http://comdev.mt.gov/CDD_CDBG_NSP.asp).

## **Grant Amounts**

MDOC anticipates that the amount of funds that can be applied for and approved will vary with population and needs of each community. The State will not impose a 'ceiling' or maximum for the amount of a grant request. However, as eligible applicants prepare their NSP proposals, they should keep in mind the limited amount of funding available relative to the eligible statewide needs. MDOC will strive to distribute NSP funds fairly and reasonably given the strong interest in NSP statewide and the limited timeframe to obligate the funds. Applicants are also encouraged to prioritize NSP eligible needs and submit proposals to address their highest priority community needs. As guidance for potential applicants, MDOC recommends that applicants apply for funding amounts commensurate with:

- a) Cost of the project;
- b) Amounts of NSP funds available for the specific activity;
- c) Consideration of other proposals submitted statewide;
- d) Availability of other funding sources;
- e) The geographic and proportionate distribution of NSP funds;
- f) Need of the jurisdiction (HUD Risk Score, subprime lending activities, and blight); and
- g) The applicant's capacity to carry out the proposed activities in a timely manner (conformance to the HUD requirements for the 18 month obligation of funds and conformance to the 4 year expenditure of NSP funds).

## **Award of Funds**

As required by HERA, NSP funds must be used or obligated within 18 months of receipt of the State's grant. The Notice states, "*Funds are used when they are obligated by a state, unit of general local government, or any subrecipient thereof, for a specific NSP activity.*" If the funds are not used or obligated for a specific NSP activity within 18 months of receipt of the grant by the State, HUD will recapture the amount of the unobligated funds. In addition, the Notice states, "*All NSP grantees must expend on eligible NSP activities an amount equal to or greater than the initial allocation of NSP funds within 4 years of receipt of those funds or HUD will recapture and reallocate the amount of funds not expended.*" Therefore, the State will implement an incremental, obligation-based grant approach for the NSP projects, to ensure that as much as possible of the \$19.6 million of NSP funds is used or obligated during the 18 month timeframe of the State's receipt of Montana's NSP funds.

Contrary to how funds are awarded with the regular CDBG program, NSP grants to eligible recipients will not receive a grant award for a firm, fixed amount of funds.

Additionally, Montana NSP does not intend to establish set-asides or provide lump sum grants for projects or activities. The obligation-based grant approach will allow projects to be approved in concept; however, the commitment of funds for project components will only be finalized as the eligible recipients are ready to firmly obligate funds for project activities through a contractual process. Once eligible recipients are ready to firmly obligate funds (i.e., all start up conditions as outlined in their contract with MDOC have been released by MDOC), recipients will receive a letter from MDOC stating that NSP funds have been designated for the project activity and will be firmly committed to the recipient contingent upon a signed contract obligating NSP funds to the designated project activity. To reduce the risk of recipients obligating funds without the firm commitment of funds from MDOC, applicants should state, within their own procurement contracts, that award of bids or purchase agreements are contingent upon receipt of NSP funds from MDOC.

Therefore, grantees will have projects approved through an initial contract with MDOC with no firm, fixed amount. Once the NSP funds are ready to be obligated by the grantee, MDOC will sign a contract amendment for the amount of funds for the specified project activities that are ready to proceed. Grantees may submit proposals for amendments to their NSP contract for multiple activities or properties, or they may bring in individual properties or activities as they are ready to proceed. Additional activities will be incorporated in the original contract with the grantee through successive MDOC-approved amendment(s).

The intent of an obligation-based grant award system and an incremental grant commitments procedure is to establish a system that will encourage the obligation and expenditure of these funds by rewarding communities that are successful in quickly committing and spending these NSP funds for eligible activities. This process will also help ensure that as much as possible of the NSP funds will be spent in Montana and not returned to HUD at the end of the 18 month timeframe. The Montana NSP website will provide assistance to prospective applicants regarding the amount of available NSP fund for the State. The MDOC NSP website is located at the following link:

[http://comdev.mt.gov/CDD\\_CDBG\\_NSP.asp](http://comdev.mt.gov/CDD_CDBG_NSP.asp)

## **Selection Criteria and Priorities**

MDOC has established the priorities described below that will be used in the NSP proposal review process for all NSP applications submitted. While each criterion is important to demonstrate a successful NSP proposal, the priorities were designed to assure that the State complies with the HUD Notice, meets applicable CDBG regulations, and spends the funds in an effective and timely manner:

- **Neighborhood Stabilization:** MDOC will give priority to those proposals that can demonstrate a strong relationship to neighborhood stabilization activities, which is consistent with existing local housing priorities.

- **Recognizable Impact:** To address the intent of HERA and the Notice which is to make certain that this funding will have a meaningful impact at the State and local level, MDOC will give priority to those proposals that can demonstrate the eligible NSP activities would result in a long-term, recognizable and visible impact and would promote overall neighborhood stabilization and community renewal. In addition, MDOC will also consider whether the applicant has chosen a geographic area or clientele of high need, in terms of concentrations of lower income families and substandard housing suitable for NSP funds to be obligated, which offers a reasonable potential for generating substantial recognizable impact.
- **Capacity of Applicant and Program Administrators:** Under HUD regulations in order to be awarded federal funds, an applicant must have the management capacity to undertake and satisfactorily complete the project it is proposing. An applicant is assumed to have the capacity to undertake the proposed project unless available information raises a question concerning an applicant's capacity. If any question arises during the evaluation of the application, MDOC may request additional information.

MDOC will consider the following considerations for all proposals:

- To be awarded a NSP grant, an eligible applicant must have the management capacity to obligate the funds within the 18 month timeframe and satisfactorily complete the project it is proposing by the end of 4 years, from the date of the approval of the State's amendment by HUD.
- An applicant is assumed to have the capacity to undertake the proposed project unless available information raises a question concerning an applicant's capacity. If any question arises when the NSP proposal is submitted, MDOC may request additional information. If an applicant does not believe that it currently has the capacity to manage a NSP grant, it may propose to hire administrative staff or arrange for project administration by another local government through an interlocal agreement or by contracting for administrative services with a consultant. (These are allowable expenses that can be paid for using NSP funds.)
- **Citizen Participation Requirements:** Public involvement can be a key factor in developing community understanding and support for a proposed NSP project and ultimately lead to a more successful project. By involving the public up-front in the development of NSP grant proposals, potential applicants can make more people aware of the opportunities available through a proposed NSP project.

Each applicant for NSP funds must hold a minimum of one public hearing prior to submitting a formal proposal to MDOC, and prior to passage of a resolution by the governing body authorizing the submission of the application. The hearing must be conducted by the city, town, county government, or Tribal Council or Tribal Housing

Authority that will sponsor the application. Applicants should hold the public hearing not more than 60 days prior to the date of submittal.

The fundamental purpose of the hearing is to provide an objective and neutral forum for consideration of overall community housing needs within the context of eligible NSP activities and to propose possible NSP projects to meet those needs, before the local government or Tribe makes a decision on what project or projects it will seek NSP assistance for.

A summary of the required hearing must be submitted with the application for NSP funds, along with copies of the public notice for the hearing or affidavits of publication for the notice. A verbatim record is not necessary; however, applicants should provide a list of the names of persons who attended the hearing and a summary of comments made by local officials and citizens which are sufficient to reflect the comments made by those attending the hearing.

Public notice must be provided before the public hearing is held. Notice of each public hearing should be published at least once in a newspaper of general circulation in the community at least seven days prior to the hearing. Where possible, notice should also be directed to persons and/or groups representing low, moderate, and middle income persons (LMMI).

The hearing should inform the public about the amount of state NSP funds estimated to be available, and the kind of activities that are eligible to be assisted with NSP funds. The hearing must be held at a time and location convenient to the general public and with reasonable accommodations for handicapped persons.

- **Assistance to Low-Income Households at or Below 50 percent AMI:** In order to meet the requirement that at least 25 percent of all NSP funds assist households at or below 50 percent of the area median income (AMI), the State will give priority to proposals that address foreclosed and abandoned property which will serve persons in this income category. NOTE: MDOC will ensure the assistance to low-income households proposed in NSP project through contract conditions with required performance levels in order to receive NSP grant payments.
  - **HERA states, “not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.”** The State will give priority to those foreclosure-related proposals that meet the 50 percent area median income (AMI) requirement.
  - **If MDOC does not receive foreclosure-related proposals totaling at least 25 percent of the NSP funds (one-fourth of the total funds obligated through Montana’s NSP allocation) for this population group as required by statute,**

**MDOC may delay awarding grants for NSP eligible activities D & E until additional eligible foreclosure-related proposals/activities (NSP activities A, B & C) are identified to meet this requirement. MDOC can only expend NSP funds for activities D & E in relative proportion to the 25 percent requirement. If MDOC did authorize projects that do not conform to the 25 percent requirement, MDOC could be liable for reimbursing those funds back to HUD under NSP regulations. MDOC may choose to solicit additional NSP proposals, unilaterally modify grant request amounts, and/or identify other eligible projects that meet the 50 percent AMI requirement.**

- **Priority Need Areas:** While all applicants must serve an area of greatest need to be eligible for NSP funding, MDOC will give priority to proposals that address the Priority Need Areas as defined in this Action Plan. To qualify for this criterion, an applicant is not required to use all NSP funds in the geographic location(s) defined as Priority Need Areas. The State encourages the use of local data to further identify priority need areas.

## **C. Definitions and Descriptions**

The following section provides the State's definitions and descriptions of significant terms and program requirements.

### **Blighted Structure**

The State is required by HUD to provide a definition of "Blighted Structure". For the purpose of Montana's NSP CDBG Program, the definition of "blighted structure" can include any one of the following categories:

- Montana Department of Revenue Property Physical Condition Database's definition of physical condition of residential housing stock which includes:
  - Unsound – indicates that the dwelling is definitely structurally unsound and practically unfit for use.
  - Very Poor – indicates that the dwelling is definitely structurally unsound and practically unfit for use. Repair and overhaul is needed on painted surfaces, roofing, plumbing and heating. There is excessive deferred maintenance and abuse. Property is approaching abandonment or major reconstruction.
- Structures located in an officially adopted floodplain, including floodway and flood fringe areas.

- Manufactured housing (mobile homes) constructed prior to July 15, 1976, the date the Manufactured Home Construction and Safety Standards Act (24 CFR 3280) became effective.
- Structures included within a designated Urban Renewal District or Tax Increment Financing District as established by Montana Statutes 7-15-4202 (blight in Urban Renewal Districts) and 7-15-4282 (Tax Increment Financing Districts).
- Structures that would meet the definition under MCA 7-15-4206 part (a):
  - “Blighted area” means an area that is means an area that is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, and crime, that substantially impairs or arrests the sound growth of the city or its environs, that retards the provision of housing accommodations, or that constitutes and economic or social liability or is detrimental or constitutes a menace to the public health, safety, welfare and morals in its present conditions and use by reason of:
    - (a) the substantial physical dilapidation, deterioration, age, obsolescence, or defective construction, material, and arrangement of buildings or improvements, whether residential or non-residential.
- Units identified as “substantially substandard” or “severely substandard” according to the Point Detraction Guideline utilized in the Montana CDBG Program, Application Guidelines for Housing and Neighborhood Renewal Projects, Appendix L, as follows:
  - Substantially Substandard – Unit appears to need substantial repair. (Rehabilitation may not be cost-effective. Alternative forms of assistance may be more appropriate.)
  - Severely Substandard – Unit appears dilapidated. Demolition and housing replacement should be considered.
  - The definition of “substandard buildings” contained in the latest authorized edition of the International Property Maintenance Code published by the International Code Council. This information is available from the Montana Department of Labor and Industry (MDLI), Building Codes Bureau.
  - Any structure determined to be seriously deteriorated or dilapidated according to a locally adopted Code for the Abatement of Dangerous Buildings or similar ordinance to address the debilitating effects of blight within communities.

## **Affordable Rents**

The State is required by HUD to provide a definition of “Affordable Rents”. NSP-assisted units will carry rent and occupancy restriction requirements. The rents will be set in

order that individuals pay no more than 35 percent of their gross income for rent, including utilities, or the applicable fair market rents for the area, as established annually by HUD, less any utility costs paid by the tenants, whichever is lower. Gross income will be defined according to the federal standards for the HUD Section 8 rent assistance program. **NOTE:** If the NSP-assisted unit is also assisted by funding from the HOME Program and/or the Low Income Housing Tax Credit (LIHTC) Program, the rent requirements for those programs will supersede the requirements noted here.

## Continued Affordability

The State is required by HUD to provide a description of how the State will ensure “continued affordability” for NSP assisted housing. HUD requires that states ensure, to the maximum extent practicable and for the longest feasible term, that the sale, rental or redevelopment of abandoned and foreclosed upon homes and residential properties remain affordable to individuals or families whose incomes do not exceed 120 percent of area median income (AMI). All homebuyer and rental units assisted must include provisions for long-term affordability restrictions

### Homebuyer Long-Term Affordability

All homebuyer units assisted with NSP funds must include provisions for long-term affordability restrictions meeting at least the following requirements:

<b>Subsidy Amount</b> <i>(amount of NSP assistance provided to a homebuyer)</i>	<b>Minimum Affordability Period</b>	<b>Minimum Restriction</b>
Under \$15,000	5 years	Subsidy recapture, 20% forgiveness each year
\$15,000 – \$40,000	10 years	Subsidy recapture, 10% forgiveness each year
Over \$40,000	15 years	Subsidy recapture, 6.6% forgiveness each year
New Construction or Acquisition of Newly Constructed Single Family Housing (any \$ amount)	20 years	Subsidy recapture, 5% forgiveness each year

While these are minimum requirements, the applicant may choose to implement more stringent affordability requirements than the minimum listed here to ensure that the properties remain affordable for as long as possible.

Proceeds from resale where subsidy recapture provision is used can be reinvested in eligible NSP activities within the first four program years. After that timeframe, proceeds must be returned to MDOC, which will subsequently return such amounts to the Federal Treasury in accordance with the HUD Notice for NSP.



## Rental

Current HUD regulations state that all rental income above that needed for operations, maintenance and reserves is considered program income and must be returned to HUD. This provision does not provide for a sliding scale or shared return of those funds. Therefore, MDOC encourages applicants to consider the long term feasibility of assisting rental housing using these funds.

<b>Subsidy Amount</b> <i>(amount of NSP assistance provided for rentals)</i>	<b>Minimum Affordability Period</b>	<b>Minimum Restriction</b>
Under \$15,000 per rental unit	5 years	Subsidy recapture, 20% forgiveness each year
\$15,000 – \$40,000 per rental unit	10 years	Subsidy recapture, 10% forgiveness each year
Over \$40,000 per rental unit	15 years	Subsidy recapture, 6.6% forgiveness each year
New Construction or Acquisition of Newly Constructed Rental Housing (any \$ amount)	20 years	Subsidy recapture, 5% forgiveness each year

Rent, occupancy, and affordability requirements for homebuyer and rental units will be enforced with covenants, mortgages, or deed restrictions running with the property.

The definition of “Continued Affordability” in this Action Plan for NSP funds is subject to change based upon HUD’s approval of this Action Plan, and/or changes issued to the NSP Notice or interpretation of the Notice as clarified on the HUD website for this program: <http://www.hud.gov/nsp>. MDOC urges potential grantees to be on alert for such changes, which will be posted on the MDOC website with other NSP publications and materials: [http://comdev.mt.gov/CDD\\_CDBG\\_NSP.asp](http://comdev.mt.gov/CDD_CDBG_NSP.asp).

## **Housing Rehabilitation Standards**

The State is required by HUD to describe the “housing rehabilitation standards” that will apply to NSP assisted activities. "Rehabilitation" includes using NSP funds to make improvements to substandard residential structures. NSP housing rehabilitation or related redevelopment projects would focus on bringing housing units up to basic code standards by addressing structural deficiencies, improving electrical systems, plumbing and roofing, and incorporating energy conservation measures.

Such improvements must meet or exceed requirements contained in current editions of the HUD Section 8 Housing Quality Standards (or FHA equivalent standards) and the following most current codes adopted by the Building Codes Bureau of the Montana Department of Labor and Industry (MDLI):

- International Building Code,
- International Residential Code, (one and two-family dwellings and townhouses up to three stories in height)
- International Existing Building Code,
- Uniform Plumbing Code,
- International Mechanical Code,
- International Fuel Gas Code,
- National Electrical Code,
- International Energy Conservation Code, and;
- American Society of Engineers, Boiler and Pressure Vessel Code.

**Note on Energy Conservation:** Communities proposing rehabilitation or new construction of residential housing units should pay particular attention to the most current edition of the International Energy Conservation Code. This code was adopted in 2004 by the Building Codes Bureau of the Montana Department of Labor and Industry. The code establishes energy conservation standards for improvements to existing residential structure or construction of new residential housing units, as well as standards for other types of construction.

For all areas outside the boundaries of Montana's tribal reservations permits must be obtained from the MDLI, Building Codes Bureau for all electrical and/or plumbing work (where a licensed plumber is performing the work) undertaken with NSP funds unless the grant recipient has been certified by the Bureau to enforce the codes cited above. In such cases, some permits will be obtained locally. The Building Codes Bureau maintains a listing of Montana counties and incorporated municipalities, which are certified to enforce building, electrical, mechanical, and plumbing codes. In those cases where the Building Codes Bureau has not certified the grant recipient, permits must be obtained from the Bureau when rehabilitation involves structures with five or more units, or any commercial or public buildings. For those structures falling within Montana's tribal reservations, tribal ordinances and related requirements apply.

Grantees will be responsible for assuring that proper authorities inspect such work. Options to provide code inspection may include interlocal agreements with governments that have existing building departments, arrangements with MDLI's Building Codes Bureau, or by contracting with qualified, private sector persons. Where possible, to preserve independence, local governments are encouraged to utilize the services of a separate individual to perform inspection services. All electrical and/or plumbing work not done by the owner of a single-family structure must be done only by electricians and/or plumbers licensed by the State of Montana.

For further information, please contact:

Building Codes Bureau/Montana Dept of Labor & Industry  
301 South Park, Room 430 -- P.O. Box 200517  
Helena, MT 59620-0517  
Phone: (406) 841-2300  
Website: [http://mt.gov/dli/bsd/bc/bs\\_index.asp](http://mt.gov/dli/bsd/bc/bs_index.asp)

### **Abandoned Property**

HUD has defined “abandoned property” within the NSP Notice. As defined in the Notice, *“A home is “abandoned” when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days, AND the property has been vacant for at least 90 days.”*

### **Foreclosed Property**

HUD has defined “foreclosed property” within the NSP Notice. As defined in the Notice, *“A property “has been foreclosed upon” at the point that, under state or local law, the mortgage or tax foreclosure is complete. HUD generally will not consider a foreclosure to be complete until after the title for the property has been transferred from the former homeowner under some type of foreclosure proceeding or transfer in lieu of foreclosure, in accordance with state or local law.”*

### **Area of Greatest Need**

The State is required by HUD, as mandated by HERA, to define the “areas of greatest need”. The State’s definition of “area of greatest need”, as well Qualified Need Areas and Priority Need Areas, are found in Section A., Areas of Greatest Need, of this Action Plan.

### **Vacant Property**

The State has chosen to define “vacant property” to assist eligible NSP recipients with NSP eligible use ‘E’. The State has defined “vacant property” as any property that is an unoccupied structure or unoccupied parcel of land upon which no structure(s) are present.

## **D. Low-Income Targeting**

HERA requires, “not less than 25 percent of the funds appropriated or otherwise made available under this section shall be used for the purchase and redevelopment of abandoned or foreclosed homes or residential properties that will be used to house individuals or families whose incomes do not exceed 50 percent of area median income.” **Therefore, 25% of the total NSP allocation of \$19.6 million that the State**

of Montana will receive must be made available for the purchase and redevelopment of abandoned or foreclosed homes or residential properties for individuals or families whose income does not exceed 50 percent of AMI. In compliance with the HERA requirement, at least one-fourth of the total funds obligated through Montana's NSP allocation will be made available for this category of NSP eligible activities.

All applicants will be encouraged to respond to the housing needs of households that do not exceed 50 percent AMI through the criteria for RFPs. Priority will be given to any proposal that serves this low-income population category.

If the State does not receive foreclosure-related proposals totaling at least 25% of the NSP funds (one-fourth of the total funds obligated through Montana's NSP allocation) for this population group as required by statute, MDOC may delay awarding grants for NSP eligible activities D & E until additional eligible foreclosure-related proposals/activities (NSP activities A, B & C) are identified to meet this requirement. MDOC can only expend NSP funds for activities D & E in relative proportion to the 25 percent requirement. If MDOC did authorize projects that do not conform to the 25 percent requirement, MDOC could be liable for reimbursing those funds back to HUD under NSP regulations. MDOC may choose to solicit additional NSP proposals, unilaterally modify grant request amounts, and/or identify other eligible projects that meet the 50 percent AMI requirement.

## E. Acquisition and Relocation

While HUD waived the "one-for-one" requirement to replace all housing units for low and moderate-income households that are lost due to demolition or modification of housing, the HUD Notice on NSP requires information about how such losses will be mitigated. (One-for-one replacement is required under the regular CDBG program as found in 24 CFR 42.375, "All occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than as lower-income dwelling units in connection with an assisted activity must be replaced with comparable lower-income dwelling units.")

This section also notes the following proposed efforts to demolish or convert housing units using NSP funding sources:

- Montana proposes to demolish or convert approximately 350 low or moderate income dwelling units, not to exceed 80% of AMI.
- Montana expects to make available approximately 100 affordable housing units for low, moderate, and middle-income households, not to exceed 120% AMI.
- Within that total number of housing units, approximately 25 units will be available for low-income households, not to exceed 50% AMI.

## F. Public Comment

A summary of public comments received regarding Montana's proposed NSP Substantial Amendment is provided in Appendix B.

Prior to the publication of this amendment, the State of Montana encouraged initial comments from the public to assist in drafting this amendment. The following is a list of presentations or conferences regarding NSP involving MDOC staff prior to November 13, 2008, the date of publication of the amendment:

- Presentation at the League of Cities and Towns in Missoula on October 9, 2008.
- Presentation at the Montana Association of Counties in Hamilton on September 24, 2008.
- Presentations at four statewide housing workshops held at the following locations:
  - Glendive – October 15, 2008
  - Billings – October 16, 2008
  - Missoula – October 29, 2008
  - Great Falls – October 30, 2008
- Conference call with five of the tribes in Montana, Governor's Office of Economic Development, and local HUD Field Representatives on October 5, 2008.
- Numerous e-mail's, letters and phone calls with elected officials and non-profit organizations.
- A two-hour state-wide combined Go-to-Webinar (internet-based conference call) and METNET (video-conferencing) on November 20. MDOC staff presented this amendment and provided an opportunity for comments and questions.
- A meeting on November 21 in Billings with representatives of several Indian tribes and a representative of NeighborWorks Montana to discuss how NSP funds can be used by the tribes.

Persons who commented on the draft amendment were encouraged to send those comments to:

Leslie Edgcomb  
Consolidated Plan Coordinator  
Montana Department of Commerce  
Housing Division  
301 S. Park Ave, 2nd Floor  
P.O. Box 200545  
Helena, MT 59620  
[ledgcomb@mt.gov](mailto:ledgcomb@mt.gov)

Jennifer Olson  
CDBG Program Specialist  
Montana Department of Commerce  
Community Development Division  
301 S. Park Ave, 2nd Floor  
P.O. Box  
Helena, MT 59620  
[jeolson@mt.gov](mailto:jeolson@mt.gov)

Comments were considered that were received by 5 p.m. on November 27, 2008.

## G. NSP Information by Activity

### ACTIVITY A: Establish Financing Mechanisms

- Description: Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers.

(1) Activity Name: Establishing financing mechanism.

(2) Activity Type:

NSP-Eligible Uses	Correlated Eligible Activities from the CDBG Entitlement Regulations
(A) Establish financing mechanisms for purchase and redevelopment of foreclosed upon homes and residential properties, including such mechanisms as soft-second, loan loss reserves, and shared-equity loans for low- and moderate-income homebuyers	<ul style="list-style-type: none"><li>▪ As part of an activity, delivery cost for an eligible activity as defined in 24 CFR 570.206.</li><li>▪ 24 CFR 570.201(n) Direct homeownership assistance</li></ul>

(3) National Objective:

- a. Provides or improves permanent residential structures that will be occupied by households at or below 120% of area median income (AMI); or
- b. Serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of the median income.

(4) Activity Description: While the exact financing mechanisms will depend on the specific projects funded through the RFP process described in Section B, each financing mechanism will be established for one or both of the following purposes:

1. To create a pool of funds through which the specific project will acquire foreclosed or abandoned homes; and/or
2. To subsidize the purchase of homes by assisting homeowners with down payment assistance or providing a soft second mortgage.

The creation of acquisition pools will benefit low income persons by creating a stock of homes for purchase or rental and by putting foreclosed homes back into productive use. Down payment assistance will assist low income persons by assisting them to purchase homes that they would be otherwise unable to purchase. The MDOC anticipates that a portion of these funds will be used to

create permanent housing opportunities for households with incomes below 50% of area median income.

- (5) Location Description: Projects will be located in areas of greatest need within Montana, with a priority emphasis on projects in the Priority Need Areas.
- (6) Performance Measures:
- ☒ Completion: Acquisition within 4 months of agreement; occupancy within 12 months of agreement.
  - ☒ Occupancy: (1) percent of units occupied by below 120% area median income; (2) percent of units by below 80% area median income; and (3) percent of units occupied by below 50% area median income.
  - ☒ Affordability period: Units years of affordability produced.
  - ☒ Substandard units improved to standard.
- (7) Total Budget: Based on the HUD data and the communities' responses, approximately 10% of NSP Project Funds will be allocated to these activities, but the final amount will be based on projects selected from responses to the RFP.

If the Montana NSP funds designated for this activity are not awarded toward a specific location or project within six months of the approval of this Action Plan Amendment, the State reserves the right to reallocate the remaining balance of unobligated funds to another designated activity or activities in this action plan.

- (8) Responsible Organization: MDOC CDD will review RFPs from local governments and tribes and make awards based on criteria established for the program. Specific awardees will be named upon evaluation of the responses to the RFP.
- (9) Projected Start Date: March 2009
- (10) Projected End Date: February 2014
- (11) Specific Activity Requirements:
- **Tenure**: This activity will include both rental and homeownership units.
  - **Duration of Assistance**: Will vary.
  - **Extended Affordability**: Applicants will be allowed to propose the continued affordability model for each project including the period of sustained affordability for the project and the legal means by which the affordability will be ensured. The standard will be the minimum term allowable as stated in this amendment. Applicants may either impose a deed restriction to ensure continued affordability or require subsidy recapture and/or mortgage repayment for failure to complete the minimum term of affordability.
  - **Discount Rate**: In all cases, financing the acquisition of foreclosed-upon properties will be in compliance with section 2301(d)(1) of HERA that requires

that each foreclosed-upon home or residential property be purchased at a discount of at least 5% from the current market-appraised value. Properties purchased in the aggregate must be discounted by at least 15%.

- **Range of Interest Rates:** These will vary depending on the specific projects selected, will likely be as low as 0% and up to market rate.

## **ACTIVITY B: Purchase and Rehabilitate Abandoned or Foreclosed Upon Homes and Residential Properties**

➤ Description: Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon.

(1) Activity Name: Purchase and Rehabilitate homes and residential properties that have been abandoned or foreclosed upon.

(2) Activity Type:

<b>NSP-Eligible Uses</b>	<b>Correlated Eligible Activities from the CDBG Entitlement Regulations</b>
(B) Purchase and rehabilitate homes and residential properties that have been abandoned or foreclosed upon, in order to sell, rent, or redevelop such homes and properties	<ul style="list-style-type: none"> <li>▪ 24 CFR 570.201 <ul style="list-style-type: none"> <li>(a) Acquisition</li> <li>(b) Disposition,</li> <li>(i) Relocation, and</li> <li>(n) Direct homeownership assistance (as modified below);</li> </ul> </li> <li>▪ 570.202 eligible rehabilitation and preservation activities for homes and other residential properties (HUD notes that rehabilitation may include counseling for those seeking to take part in the activity).</li> <li>▪ As part of an activity, delivery cost for an eligible activity as defined in 24 CFR 570.206.</li> </ul>

(3) National Objective:

- a. Provides or improves permanent residential structures that will be occupied by households at or below 120% of AMI; or
- b. Serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of the median income.



- (4) Activity Description: This activity will benefit low income persons by creating a stock of homes for purchase or rental and by putting abandoned or foreclosed homes back into productive use. MDOC anticipates that a portion of these funds will be used to create permanent housing opportunities for households with incomes below 50% of area median income.

Rehabilitation projects will meet housing rehabilitation standards and affordability standards outlined in this Amendment.

- (5) Location Description: Projects will be located in areas of greatest need within the State of Montana, with a priority emphasis on projects in Census Block Groups that contain at least one census tract block group with a Risk Score of 5 or greater. Specific addresses will be established by the projects selected in the RFP process.

- (6) Performance Measures:

- ☒ Completion: Acquisition within 3 months of agreement.
- ☒ Affordability period: Units years of affordability produced.
- ☒ Substandard units improved to standard.

- (7) Total Budget: Based on comments received prior to publishing the amendment it is estimated that 15% of NSP Project Funds will be allocated to these activities, but the final amount will be based on projects selected from responses to the RFP.

If the Montana NSP funds designated for this activity are not awarded toward a specific location or project within six months of the approval of this action plan, the State reserves the right to reallocate the remaining balance of unobligated funds to another designated activity or activities in this Action Plan Amendment.

- (8) Responsible Organization: The MDOC CDD will review applications from local governments and tribes and make awards based on criteria established for the program. Specific awardees will be named upon evaluation of the responses to the RFP.

- (9) Projected Start Date: March 2009

- (10) Projected End Date: February 2014

- (11) Specific Activity Requirements:

- **Tenure**: This activity will include both rental and homeownership units.
- **Duration of Assistance**: Will vary.
- **Extended Affordability**: Applicants will be allowed to propose the continued affordability model for each project including the period of sustained affordability for the project and the legal means by which the affordability will

be ensured. The standard will be the minimum term allowable as stated in this amendment. Applicants may either impose a deed restriction to ensure continued affordability or require subsidy recapture and/or mortgage repayment for failure to complete the minimum term of affordability.

- **Discount Rate:** In all cases, financing the acquisition of foreclosed-upon properties will be in compliance with section 2301(d)(1) of HERA that requires that each foreclosed-upon home or residential property be purchased at a discount of at least 5 percent from the current market-appraised value. Properties purchased in the aggregate must be discounted by at least 15 percent.
- **Range of Interest Rates:** N/A.

### ACTIVITY C: Establish Land Banks

➤ Description: Establish land banks for homes that have been foreclosed upon.

(1) Activity Name: Establish land banks for homes that have been foreclosed upon.

(2) Activity Type:

NSP-Eligible Uses	Correlated Eligible Activities from the CDBG Entitlement Regulations
(C) Establish land banks for homes that have been foreclosed upon	<ul style="list-style-type: none"> <li>▪ 24 CFR 570.201               <ul style="list-style-type: none"> <li>(a) Acquisition and</li> <li>(b) Disposition.</li> </ul> </li> <li>▪ As part of an activity delivery cost for an eligible activity as defined in 24 CFR 570.206.</li> </ul>

(3) National Objective: To serve an area in which at least 51 percent of the residents have incomes at or below 120 percent of the median income.

(4) Activity Description: Land banks will be a small part of the State's NSP program. Land banks will be restricted to areas that demonstrate conclusively to the State that there is a supply of foreclosed homes in substantial excess to the population of that area and that there is not a viable development alternative in those areas. Land banks will create legal entities to purchase and hold foreclosed homes and ensure that those homes are safe and not blight in the neighborhoods. Land banks will assist in making these homes community assets while waiting for a re-sale market for those properties to develop. Land banks funded with NSP must have plans for the sale or disposition of all homes acquired within **ten years** of acquiring the homes.

The creation of land banks will benefit low income persons primarily by ensuring that the foreclosed homes in low income neighborhoods will be maintained in a safe productive way for such neighborhoods. Land banks will not create permanent housing opportunities for households with incomes below 50% of area median income.

If the NSP funds designated for this activity are of awarded toward a specific location or project within six months of the approval of this Action Plan Amendment, the State reserves the right to move the remaining funds to another designated activity or activities in this Action Plan Amendment.

- (5) Location Description: Projects will be located in areas of greatest need within the State of Montana, with a priority emphasis on projects in areas that have at least one census tract block group with a Risk Score of 5 or greater. Specific addresses will be established by the projects selected in the RFP process.
- (6) Performance Measures:
  - ☒ Completion: Acquisition within 3 months of agreement.
- (7) Total Budget: Based on comments received prior to publishing the amendment it is estimated that less than 5% of NSP Project Funds will be allocated to these activities, but the final amount will be based on projects selected from responses to the RFP.

If the Montana NSP funds designated for this activity are not awarded toward a specific location or project within six months of the approval of this action plan, the State reserves the right to reallocate the remaining balance of unobligated funds to another designated activity or activities in this action plan.

- (8) Responsible Organization: The MDOC CDD will review applications from local governments and tribes and make awards based on criteria established for the program. Specific awardees will be named upon evaluation of the responses to the RFP.
- (9) Projected Start Date: March 2009
- (10) Projected End Date: February 2014
- (11) Specific Activity Requirements:
  - **Tenure**: This activity will include both rental and homeownership units.
  - **Duration of Assistance**: Will vary.
  - **Extended Affordability**: Applicants will be allowed to propose the continued affordability model for each project including the period of sustained affordability for the project and the legal means by which the affordability will be ensured. The standard will be the minimum term allowable as stated in this

amendment. Applicants may either impose a deed restriction to ensure continued affordability or require subsidy recapture and/or mortgage repayment for failure to complete the minimum term of affordability.

- **Discount Rate:** In all cases, financing the acquisition of foreclosed-upon properties will be in compliance with section 2301(d)(1) of HERA that requires that each foreclosed-upon home or residential property be purchased at a discount of at least 5 percent from the current market-appraised value. Properties purchased in the aggregate must be discounted by at least 15 percent.
- **Range of Interest Rates:** n/a

(12) Additional Clarification:

- Some confusion has arisen regarding the distinction between “land banks” and “land trusts”. For the purposes of this Action Plan Amendment, “land banks” are defined as the purchase of real estate by a public entity or non-profit organization with no commitment to subsequent redevelopment or provision of affordable housing. The implementing October 6, 2008 NSP regulations from HUD discourage those situations where the proposal is simply to establish a land bank and merely acquire property rather than carrying out other activities intended to arrest neighborhood decline, such as demolition or facilitating redevelopment of the property. HUD does not believe the benefits of just holding property are sufficient to stabilize most neighborhoods, or that this is the best use of limited NSP funds, absent a redevelopment plan. **Therefore, NSP regulations require that a land bank may not hold a property for more than ten years without obligating the property for a specific, eligible redevelopment activity in accordance with NSP requirements.**
- In contrast, community land trusts are a real estate ownership mechanism whereby the land on which a unit is constructed is held in trust, usually in perpetuity. NSP applicants are welcome to propose the use of land trusts under NSP eligible uses B and E, so long they demonstrate that the objectives and tight time-frames of the NSP program can be achieved.

## **ACTIVITY D: Demolish Blighted Structures**

➤ Description: Demolish blighted structures

(1) Activity Name: Demolish blighted structures.

(2) Activity Type:

NSP-Eligible Uses	Correlated Eligible Activities from the CDBG Entitlement Regulations
(D) Demolish blighted structures	<ul style="list-style-type: none"><li>▪ 24 CFR 570.201 (d) Clearance for blighted structures only.</li><li>▪ As part of an activity, delivery cost for an eligible activity as defined in 24 CFR 570.206.</li></ul>

(3) National Objective: To serve an area in which at least 51 percent of the residents have incomes at or below 120 percent of the median income.

(4) Activity Description: Demolition can be considered as part of a comprehensive plan for neighborhood revitalization or redevelopment of a site for affordable housing or some other public purpose. Demolition of blighted structures will be a relatively large part of the State's NSP program. Demolition will be restricted to areas that demonstrate conclusively to the State that the demolition of the structures in question will facilitate neighborhood redevelopment and that there is not a viable development alternative for those structures.

The demolition of blighted structures under the NSP program will benefit low income persons primarily by ensuring that blighted structures in low income neighborhoods will not continue to be a nuisance and hazard in the community. Demolition will not create permanent housing opportunities for households with incomes below 50% of area median income.

(5) Location Description: Projects will be located in areas of greatest need within the State of Montana, with a priority emphasis on projects in areas that contain at least a risk score of 5.5% or greater. Specific addresses will be established by the projects selected in the RFP process.

(6) Performance Measures:  
☒ Completion: Demolition within 3 months of agreement.

(7) Total Budget: Based on comments received prior to publishing the amendment it is estimated that between 20% of NSP Project Funds will be allocated to these activities, but the final amount will be based on projects selected from responses to the RFP.

If the Montana NSP funds designated for this activity are not awarded toward a specific location or project within six months of the approval of this action plan, the State reserves the right to reallocate the remaining balance of unobligated funds to another designated activity or activities in this Action Plan Amendment.

- (8) Responsible Organization: The MDOC CDD will review applications from local governments and tribes and make awards based on criteria established for the program. Specific awardees will be named upon evaluation of the responses to the RFP.
- (9) Projected Start Date: March 2009
- (10) Projected End Date: February 2014
- (11) Specific Activity Requirements: All specific activity requirements are not applicable to demolition.
- (12) Additional Clarification:
- Potential applicants for NSP should pay particular attention to the NSP eligible use 'D' activity, which allows demolition of deteriorated or dilapidated structures. Due to a combination of several factors, many Montana communities have significant numbers of vacant or even occupied, seriously dilapidated structures that constitute a serious negative effect on property values, discourage community reinvestment, and pose a threat to public safety and health. Under the NSP Program, communities can identify the blighted residential properties and utilize the NSP funds to demolish vacant or even occupied (if done on a voluntary basis) deteriorated or dilapidated structures, and provide quality replacement housing for the assisted household. This option also provides the opportunity to replace aged, deteriorated mobile homes with decent housing. (See activity E)

#### **ACTIVITY E: Redevelop Demolished or Vacant Properties**

- Description: Redevelop demolished or vacant properties.
- (1) Activity Name: Redevelop demolished or vacant properties.

(2) Activity Type:

<b>NSP-Eligible Uses</b>	<b>Correlated Eligible Activities from the CDBG Entitlement Regulations</b>
(E) Redevelop demolished or vacant properties	<ul style="list-style-type: none"><li>▪ 24 CFR 570.201<ul style="list-style-type: none"><li>(a) Acquisition,</li><li>(b) Disposition,</li><li>(c) Public facilities and improvements,</li><li>(e) Public services for housing counseling, but only to the extent that counseling beneficiaries are limited to prospective purchasers or tenants of the redeveloped properties,</li><li>(i) Relocation, and</li><li>(n) Direct homeownership assistance (as modified below).</li></ul></li><li>▪ “204 Community Based Development Organizations.”</li></ul>

(3) National Objective(s):

- (a) provides or improves permanent residential structures that will be occupied by households at or below 120% of area median income; or
- (b) serves an area in which at least 51 percent of the residents have incomes at or below 120 percent of the median income.

(4) Activity Description: The redevelopment of demolished or vacant properties is a relatively broad use that will incorporate a number of different projects, to be chosen based on the State’s RFP process. The State will prioritize redevelopment projects that create new housing units (both rental and homeownership) for low-moderate-middle income households, as defined by the Notice. Other redevelopment projects eligible under the Notice, such as mixed use residential and commercial development, will be considered.

The redevelopment of demolished or vacant properties will benefit low income persons in a number of ways including returning demolished or vacant properties to productive use and by which create new housing units (both rental and homeownership) for low-moderate-middle income households, as defined by the Notice. The redevelopment of demolished or vacant properties will create permanent housing opportunities for households with incomes below 50% of area median income.

(5) Location Description: Projects will be located in areas of greatest need within the State of Montana, with a priority emphasis on projects in areas with a risk score

of 5 or greater, or a blight score of 5.5% or higher. Specific addresses will be established by the projects selected in the RFP process.

(6) Performance Measures:

- ☒ Completion: Acquisition within 3 months of agreement; occupancy to be complete within 4 years from the date that HUD approves this amendment.
- ☒ Occupancy: Number of units occupied by below 120% area median income, number of units by below 80% area median income; number of units occupied by below 50% area median income.
  - ☒ Affordability period – units years of affordability produced.
  - ☒ Substandard units improved to standard.

(7) Total Budget: Based on comments received prior to publishing the amendment it is estimated that, approximately 45% of NSP Project Funds may be allocated to these activities, but the final amount will be based on projects selected from responses to the RFP.

If the Montana NSP funds designated for this activity are not awarded toward a specific location or project within six months of the approval of this action plan, the State reserves the right to reallocate the remaining balance of unobligated funds to another designated activity or activities in this Action Plan Amendment.

(8) Responsible Organization: The MDOC CDD will review applications from local governments and tribes and make awards based on criteria established for the program. Specific awardees will be named upon evaluation of the responses to the RFP.

(9) Projected Start Date: March 2009

(10) Projected End Date: February 2014

(11) Specific Activity Requirements:

- **Tenure:** This activity will include both rental and homeownership units.
- **Duration of Assistance:** Will vary.
- **Extended Affordability:** Applicants will be allowed to propose the continued affordability model for each project including the period of sustained affordability for the project and the legal means by which the affordability will be ensured. The standard will be the minimum term allowable as stated in this amendment. Applicants may either impose a deed restriction to ensure continued affordability or require subsidy recapture and/or mortgage repayment for failure to complete the minimum term of affordability.
- **Discount Rate:** In all cases, financing the acquisition of foreclosed-upon properties will be in compliance with section 2301(d)(1) of HERA that requires that each foreclosed-upon home or residential property be purchased at a



discount of at least 5 percent from the current market-appraised value. Properties purchased in the aggregate must be discounted by at least 15 percent.

- **Range of Interest Rates:** n/a

## H. TOTAL BUDGET

Based on comments received prior to publishing the final amendment, the State of Montana has developed an estimated budget across each NSP activity. These are approximations and may change based on responses received in the RFP process. Please Note: HERA requires that for every one dollar obligated to projects serving families at 50% of AMI for the purchase or redevelopment of foreclosed or abandoned homes, three dollars can be obligated to any other eligible NSP activities. **Therefore, MDOC will give priority to those foreclosure-related proposals that will meet the 50 percent (low income) area median income (AMI) requirement.** If MDOC does not receive proposals totaling at least 25 percent of the NSP funds for this income group as required by statute, MDOC may delay awarding grants for NSP eligible activities D & E until additional eligible proposals/activities are identified to meet this requirement. MDOC may choose to solicit additional NSP proposals, unilaterally modify grant request amounts, and/or identify other eligible projects that meet the 50 percent (low income) AMI requirement.

If the Montana NSP funds designated for an activity are not awarded toward a specific location or project within six months of the approval of this action plan, the State reserves the right to reallocate the remaining balance of unobligated funds to another designated activity or activities in this Action Plan Amendment.

**TOTAL MONTANA NSP BUDGET**

<b>NSP Activity / Category</b>	<b>Subtotals</b>	<b>Amounts</b>	<b>Percent of Total</b>
<b>A. Financing Mechanisms</b>			
Local Project Cost	\$ 1,857,100		
Local Admin	\$ 102,900		
		\$ 1,960,000	10.00%
<b>B. Acquisition/Rehabilitation</b>			
Project Cost	\$ 2,778,300		
Local Admin	\$ 161,700		
		\$ 2,940,000	15.00%
<b>C. Land Banks</b>			
Project Cost	\$ 928,550		
Local Admin	\$ 51,450		
		\$ 980,000	5.00%
<b>D. Demolition</b>			
Project Cost	\$ 3,714,200		
Local Admin	\$ 205,800		
		\$ 3,920,000	20.00%
<b>E. Redevelop/ New Construction</b>			
Project Cost	\$ 8,356,950		
Local Admin	\$ 463,050		
		\$ 8,820,000	45.00%
<b>State Admin Activities</b>			
State Admin	\$ 980,000		5.00%
		\$ 980,000	
<b>TOTAL</b>		<b>\$19,600,000</b>	<b>100.00%</b>

## I. PERFORMANCE MEASURES

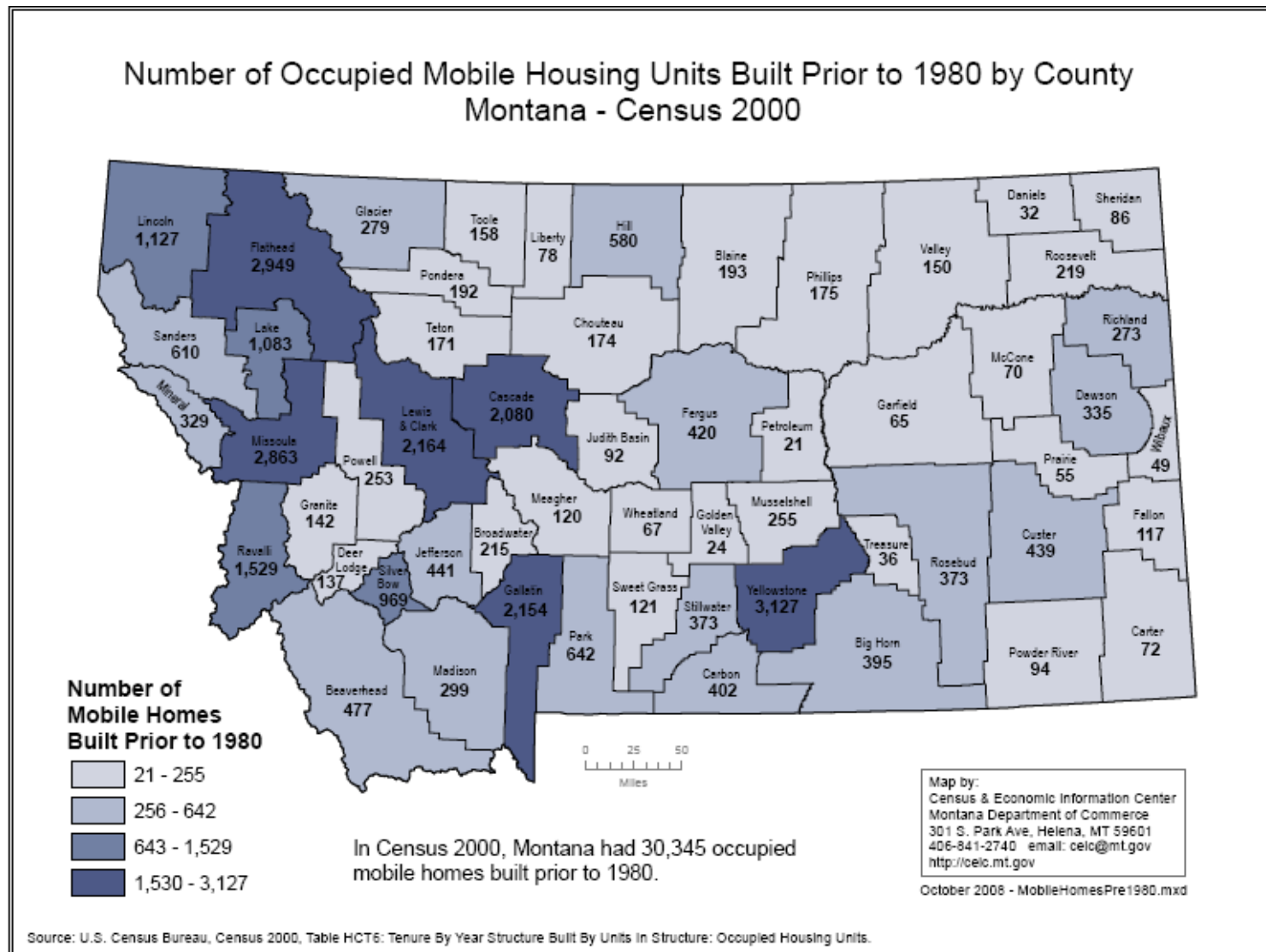
Below is a summary of the State's expected budget for the use of NSP funds. These numbers are subject to change once local project proposals are approved by the State. MDOC can also provide the number of units broken out by income category once those projects are approved. MDOC will also provide information on progress of fulfilling these measures as required by the reporting procedures outlined in the HUD Notice.

	<b>Housing Units</b>
Financed	5
Acquisition / Rehab	25
Land Bank	5
Demolished	350
New Construction	75

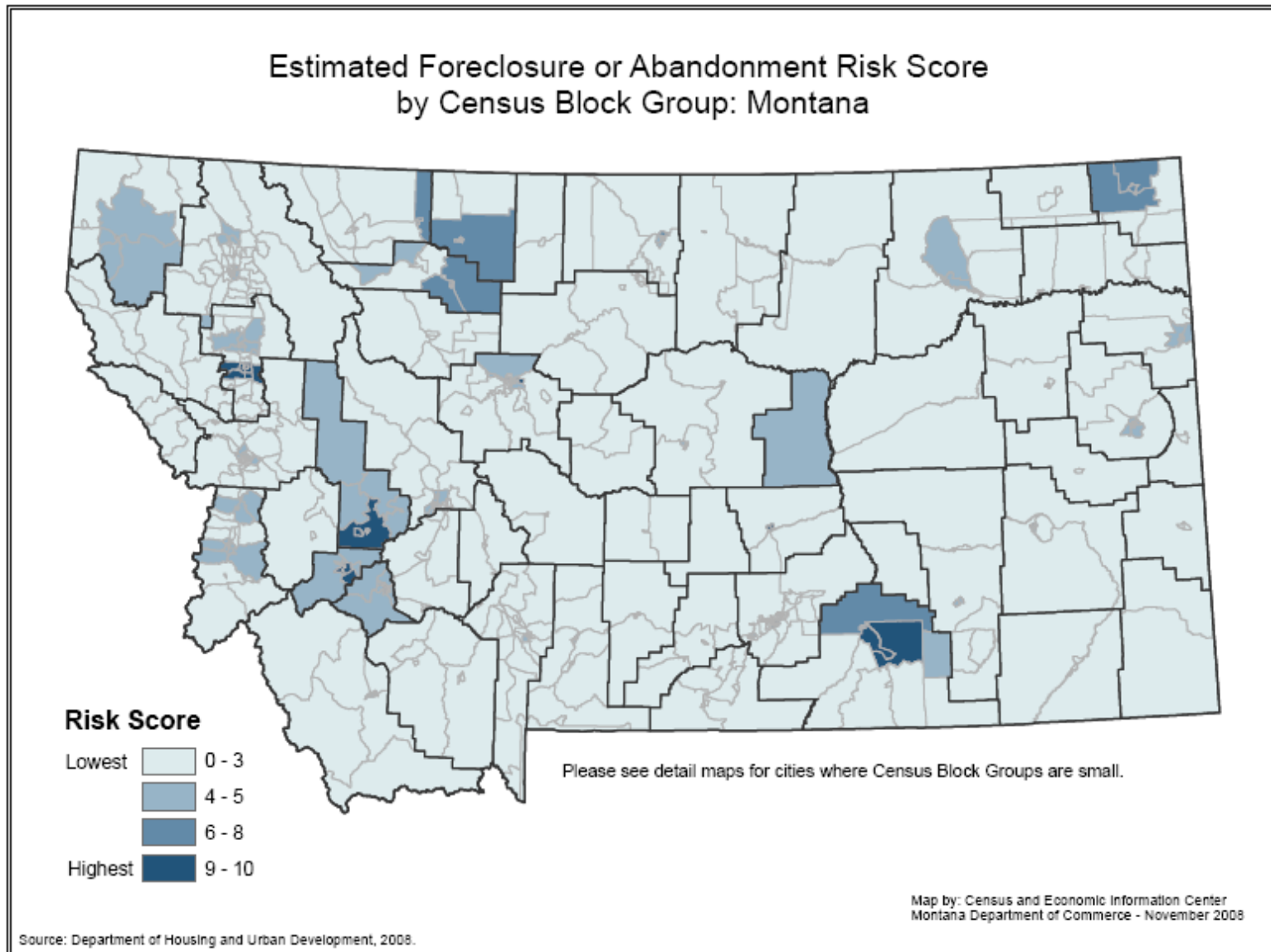
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## Appendix A – Maps

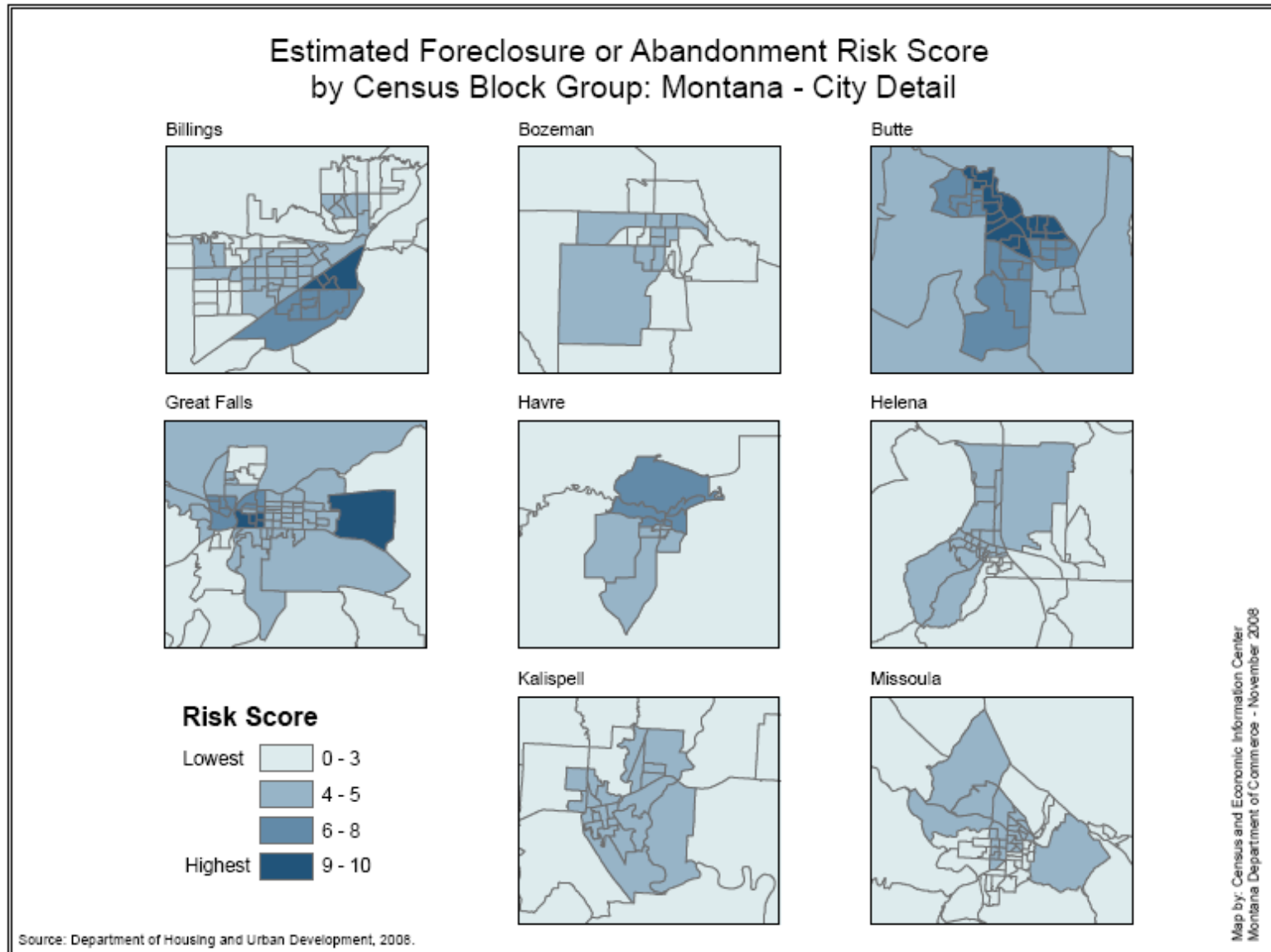
### Number of Occupied Mobile Home Units Built Prior to 1980 by County



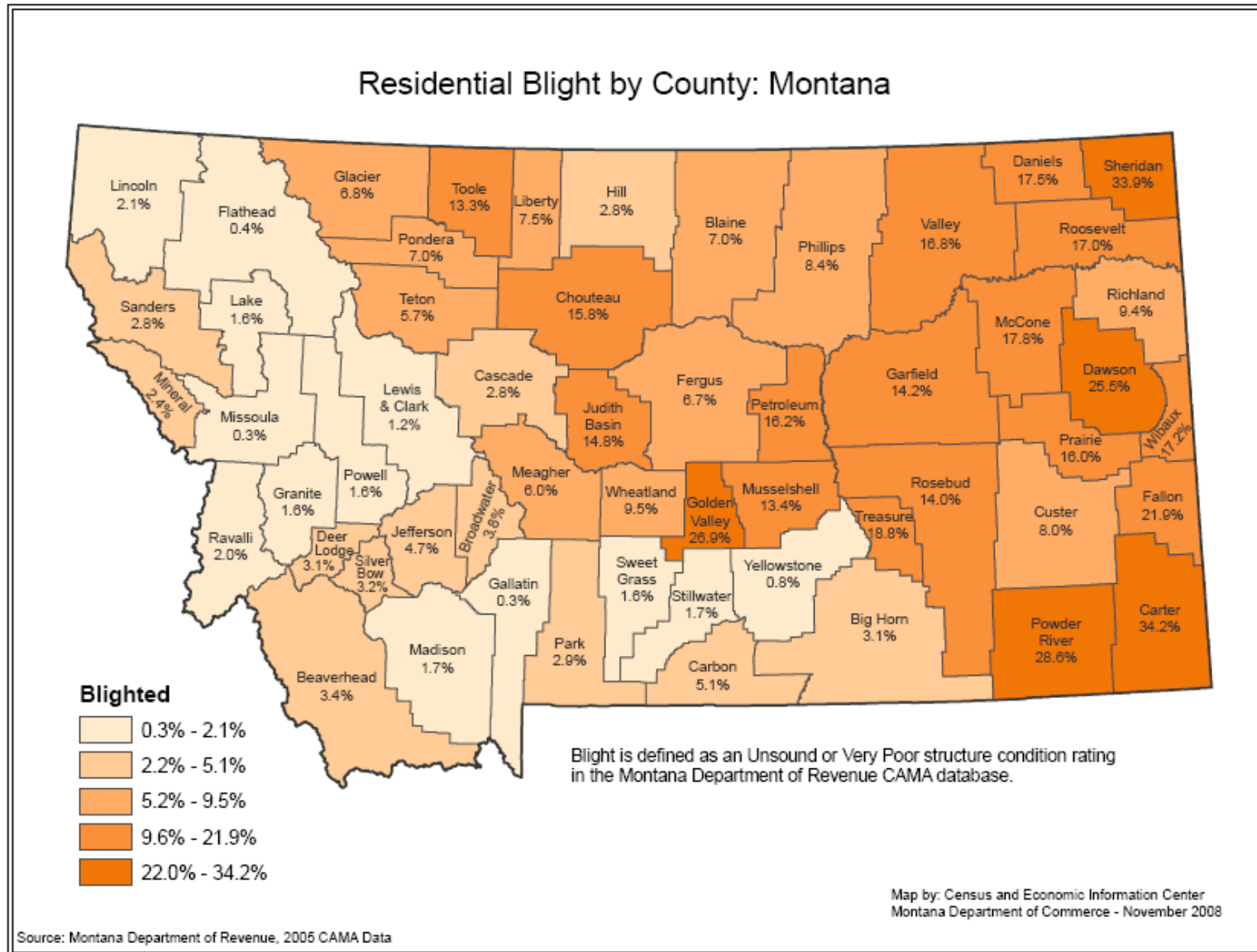
## Estimated Foreclosure or Abandonment Risk Score by Census Block Group: Montana



## Estimated Foreclosure or Abandonment Risk Score by Census Block Group: Montana – City Detail

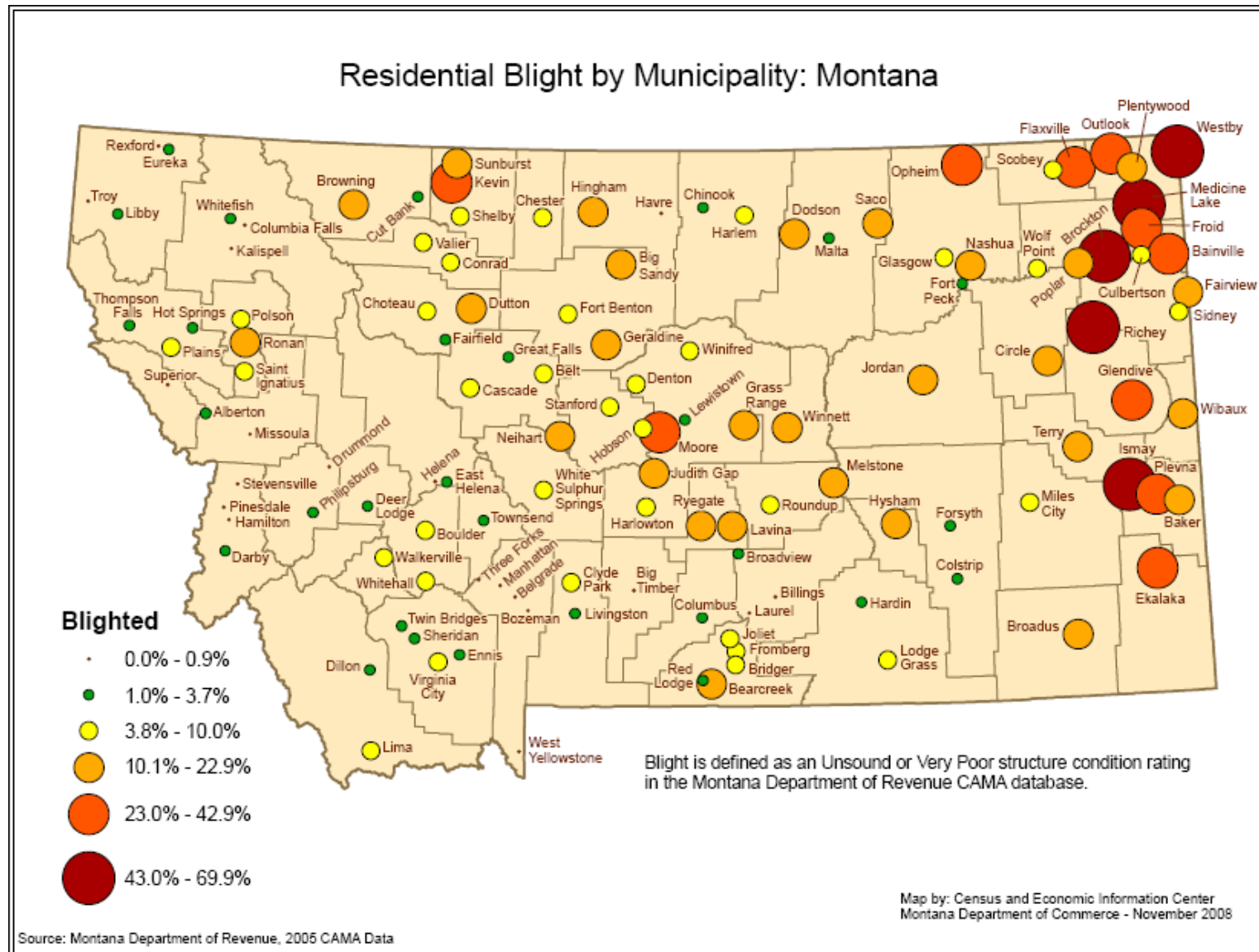


## Residential Blight by County: Montana





## Residential Blight by County: Montana



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## Appendix B – Summary of Public Comments on Montana’s NSP Amendment

MDOC received the following comments on Montana’s draft action plan amendment for the Neighborhood Stabilization Program during the 15 day public comment period held November 13 through November 27, 2008. Comments were grouped according to common subject areas. MDOC responses are as follows:

### I. PROCESS

1. Please consider how difficult it is to design, build, and sell or lease up within the 12 month limit for redevelopment of demolished or vacant properties, especially if procurement is involved.

*MDOC Response:*

*MDOC agrees that the proposed time frame is too restrictive for most prospective applicants. The following change has been inserted into the final amendment: “Occupancy of any project will need to be completed within four years of the date of HUD’s approval of the MDOC NSP Amendment.*

2. Please consider the risk to applicants of obligating administrative or project costs without a firm commitment of funds from MDOC.

*MDOC Response:*

*MDOC does not expect eligible applicants to firmly obligate resources in the absence of a commitment of funds from MDOC. Additional language was added to the amendment to clarify that MDOC recommends that all NSP recipients clearly state in their procurement actions that all contracts obligating NSP funds are contingent upon the firm receipt of funds from MDOC. This process is similar to standard practice in the regular state CDBG program.*

3. Please consider an abbreviated application deadline to ensure a level playing field and to offer a more transparent system.

*MDOC Response:*

*In response to comments from several tribes and small, rural communities from all parts of the State, MDOC has established a three staged, open-cycle, request for proposals process. This staggered process will allow MDOC to provide technical assistance to those who have not worked previously with the State CDBG program, and work with eligible recipients to review preliminary project proposals and to suggest modifications and ensure consistency with NSP requirements.*

4. Is a public hearing for NSP proposals required?

*MDOC Response:*

*Yes, MDOC will require one public hearing prior to submission of an application for NSP funds. Three factors influenced this decision: Montana CDBG's long history of encouraging public participation in the development of local CDBG projects, the Montana Constitution's requirement for open government, and the Schweitzer Administration's strong affirmation of openness and citizen participation in State government. The local unit of government will be responsible to hold and document the hearing, which should encourage consultation with intended beneficiaries and local citizens.*

5. How do you plan to prioritize criteria to fund proposals?
- First come/first served?
  - Greater need: "Qualified Need" vs. "Priority Need" groups?
  - Most responsive to the NSP criteria?
  - Permanent, single-family owned affordable housing proposals versus rentals?

*MDOC Response:*

*MDOC is determined to obligate and expend as much as possible of the NSP funds to benefit Montana families during the established timeframes. MDOC drafted and finalized the amendment with the maximum amount of flexibility to be responsive to locally identified needs within the framework of the NSP eligible uses. MDOC included additional language to clearly state that Montana's NSP funds will be prioritized to address HERA's requirement that at least 25 percent of the funds will be used on foreclosed or abandoned properties that will assist families or individuals whose income does not exceed 50 percent of area median income. See additional discussion under Section B of the Amendment, Distribution Process.*

6. Please consider allowing eligible recipients to use the most current local data in lieu of the data referenced in the draft. Local current data is more relevant and pertinent.

*MDOC Response:*

*MDOC encourages applicants use local data to support their NSP proposals. Each applicant should highlight pertinent local data within its proposal(s), wherever relevant. All such data will be considered by MDOC during application review by MDOC.*

7. Foreclosure is not currently as big a problem in Montana as in some other states. Please consider the fact that Montana's market trends lag behind national trends, so foreclosures and the risk of foreclosures have not yet impacted many places in Montana.

*MDOC Response:*

*While MDOC acknowledges that while this market trend may be true, the NSP Federal Register Notice does not allow MDOC to reduce the 25% requirement*

*regarding foreclosures and the risk of foreclosures, nor does the Notice allow obligation of funds after the 18 month timeframe.*

8. Please consider a plan to distribute funding through regional organizations or non-profits.

*MDOC Response:*

*MDOC has established that eligible applicants will be limited to tribes and local governments for submitting proposals to MDOC when the RFP process has begun. Federal regulations require that grant recipients have adequate management capacity and financial management systems that meet generally accepted accounting principles. Given the limited time frames for NSP implementation, MDOC believes that this responsibility is best assured by limiting eligible applicants to Indian Tribes and general purpose local governments (counties and municipalities). Many of Montana's Indian tribes are familiar with CDBG requirements because of past experience with the HUD Indian CDBG Program. Likewise, many counties and municipalities are also familiar with CDBG requirements due to past experience with either the HUD Entitlement CDBG Program or the State CDBG Program. See discussion under Section B of the Amendment, Eligible Applicants.*

*However, MDOC encourages regional and non-profit organizations to partner with tribes and local governments to develop and implement NSP proposals.*

9. Please consider redistribution of funds within a region to accomplish the benefit within respective regions.

*MDOC Response:*

*HERA has established that NSP funds can only be used in the areas of greatest need and obligated or used within 18 months, this timeframe begins the date that HUD approves Montana's amendment. If funds are not obligated before the end of 18 months, HUD will recapture the funds. Due to the complex and challenging regulatory framework for NSP, the redistribution of NSP funds to a regional area could restrict the implementation of Montana's NSP program. MDOC has worked to create as much flexibility within the amendment as possible to allow locally identified needs to be addressed within the framework of the HERA statute and NSP Notice.*

10. Please consider a streamlined approach to the application and reporting requirements.

*MDOC Response:*

*Many of the application requirements are dictated by HUD; however, MDOC has proposed a staggered, open-cycle RFP process to allow all eligible recipients time to respond with proposals that are consistent with the NSP. See additional discussion under Section B in the Amendment, Distribution Process.*

11. Several Comments were received requesting set-asides for the following categories:

- Community Land Trusts,
- Elderly Persons,
- Tribes,
- Entitlement Areas,
- Specific geographic regions in the State, and
- Non-profit organizations.

**MDOC Response:**

*The NSP Federal Register Notice established the eligible uses of NSP funds. Additionally, MDOC has proposed a three stage, open-cycle RFP process to quickly implement Montana's NSP and to be responsive to the needs of all of the various interest groups. In addition, MDOC is concerned that allocating NSP funds through categorical set-asides could create a potential obstacle for assuring that all the NSP funds will be committed to local projects within the required 18 month timeframe. See additional discussion under Section B in the Amendment, Award of Funds.*

## **II. DEFINITIONS**

1. Please amend the Montana NSP amendment's definition of blight and use the definition in Montana Code Annotated 7-15-4206.

**MDOC Response:**

*MDOC has expanded the definition of blight to include the definition included in state law (Montana Code Annotated (MCA) 7-15-4206). See additional discussion under Section C in the Amendment, Definitions and Descriptions.*

2. Please interpret broadly the list of eligible uses.

**MDOC Response:**

*MDOC does not have the option to "broadly" interpret any of the NSP eligible uses. The eligible uses were established by HUD in the NSP Federal Register Notice and are further clarified through subsequent follow up directives the State receives from HUD.*

3. Please consider the location of structures within designated floodways and floodplains in the State's definition of blight for the Montana's NSP.

**MDOC Response:**

*MDOC agrees and will include structures located within designated floodways and floodplains in the State's definition of blight for Montana's NSP. In many communities, residences have been constructed in areas that have subsequently been designated as floodways and floodplains. This can have a significant impact on property values and encourage neighborhood blight and*

*disinvestment. NSP funds could potentially be used to demolish these properties and help residents voluntarily relocate to more suitable living sites.*

4. Several comments appeared to misunderstand or misuse the term “abandoned”, as related to NSP.

*MDOC Response:*

*MDOC is unable to change the current definition as defined within the NSP Notice, which states that abandoned properties are only those associated with property foreclosure. As stated in the NSP Notice, “A home is abandoned when mortgage or tax foreclosure proceedings have been initiated for that property, no mortgage or tax payments have been made by the property owner for at least 90 days, AND the property has been vacant for at least 90 days.”*

*MDOC has broadly defined the term “vacant” under NSP eligible use ‘E’. “The State has defined “vacant property” as any property that is an unoccupied structure or unoccupied parcel of land upon which no structure(s) are present.” See additional discussion under Section D in the Amendment, Definitions and Descriptions.*

### **III. ELIGIBLE NSP ACTIVITIES**

1. Please include Community Land Trusts as part of MDOC’s amendment and the National Strategy.

*MDOC Response:*

*MDOC encourages the use of Community Land Trust models under NSP eligible uses B and E.*

2. Since Montana has such a small percentage of foreclosed and abandoned properties, please consider expanding the “25% requirement” to allow any project, not just those that are related to foreclosed or abandoned properties, to be considered as assisting households at or below 50% of AMI. In short, please consider removing the requirement that 25% of the funds be expended on foreclosed or abandoned properties.

In some Montana communities, families that have had their homes foreclosed upon are now having difficulty renting replacement housing. Due to the limited number of rentals, local housing authorities are badly in need of additional rental housing units. Newly constructed rentals on vacant property could assist families that are no longer homeowners and are at or below 50% of AMI. We request that these projects that assist families at or below 50% of AMI for eligible use E be considered a priority and count toward the 25% requirement.

*MDOC Response:*

*MDOC does not have the option of unilaterally removing the requirement that 25% of the funds be expended on assisting households at or below 50% of AMI in relation to foreclosed or abandoned properties.*

*MDOC has made the argument to HUD that other activities should be considered as meeting the 25% requirement. MDOC has requested that HUD modify its policy to allow these types of activities to count against the 25% requirement. Unfortunately, until HUD grants this request, MDOC is unable to allow housing assistance to previously foreclosed homeowners to count under the 25% requirement.*